

February 6, 2006

NEPA Draft Report Comments
c/o NEPA Task Force
Committee on Resources
1324 Longworth House Office Building
Washington, DC 20515

To: Members of the NEPA Task Force

Please accept the following comments from American Hiking Society, a national nonprofit organization that promotes and protects foot trails and the hiking experience, on the Initial Findings and Draft Recommendations of the National Environmental Policy Act (NEPA) Task Force. American Hiking is very concerned the draft recommendations would weaken NEPA, one of our hallmark environmental laws.

NEPA is vital to informing the public about the environmental consequences of myriad governmental actions, engaging the public in comprehensive review of alternatives, and ensuring sound decision-making in a broad spectrum of issues, including many that affect trails and the hiking experience. NEPA has improved countless projects on our federal lands and in our communities and prevents projects that threaten the environment, natural resources, and/or public health. Many of our affiliated organizations have participated in hundreds of NEPA-related reviews and consider the NEPA process an invaluable tool to examine and improve public projects.

Although the Task Force report acknowledges that public participation is central to NEPA's success, several recommendations in the draft place significant restrictions on who, when, and how the public can participate in all levels of the NEPA process.

Our specific concerns with the draft findings include the following:

Recommendation 1.1 would create a new definition for "major federal action" that would only include "new and continuing projects that would require substantial planning, time, resources and expenditures." This proposal is unnecessary given existing guidelines and adds new criteria while disregarding the basic principle of whether an action significantly affects the quality of the human environment.

Recommendation 1.2, which creates mandatory timelines for the completion of NEPA documents, could allow a project to be considered complete even if no public documents were released or no public comments were made, greatly reducing the value of public input. It is also unrealistic to impose a blanket timeline across such a broad range of analyses.

Recommendation 1.3 creates new criteria for the use of Categorical Exclusions, Environmental Assessments, and Environmental Impact Statements. Existing laws

already provide direction for determining different levels of environmental review. This proposal also incorrectly assumes that temporary actions produce minimal effects.

Recommendation 1.4 unnecessarily amends NEPA to address supplemental NEPA documents. Existing regulations already specify that supplemental documentation is only required if there are substantial changes in the agency action or significant new information relevant to environmental concerns.

Recommendation 4.1, which amends NEPA to create a citizen suit provision, unduly restricts who, when and how the public can challenge agency decisions. Various provisions within this recommendation place significant restrictions on a citizen's ability to participate in the public process, leading to increased frustration and inadequate recourse for poor decision-making.

Recommendation 5.1 requires that "reasonable alternatives" analyzed in NEPA documents be limited to those which are economically and technically feasible, as supported by feasibility and engineering studies. This requirement could benefit industries and corporate interests with the resources to fund complex and expensive studies, leaving citizens and organizations at a disadvantage. Existing guidance provides direction as to what is practical and feasible.

Recommendation 5.2 requires extensive discussion of the "no action alternative" and requires that agencies reject this alternative if "on balance" the impacts of not undertaking a project/decision would outweigh the impacts of executing the project/decision. This language is unclear, removes an agency's ability to evaluate the full range of options independently, and could move a project forward even if it is overwhelmingly opposed by the public.

Recommendation 8.2 intends to clarify which types of future actions are appropriate for consideration under the cumulative impact analysis. Altering existing guidance to limit analysis of future impacts to "concrete proposed actions" rather than those reasonably foreseeable restricts an agency's ability to consider future impacts of likely actions that may adversely affect the environment or communities.

Although American Hiking does not support the above amendments to NEPA, we do agree improvements can be made to improve NEPA implementation. Requiring monitoring of project impacts, improving management oversight, enhancing agency training and resources, and making mitigation proposals mandatory are prudent ideas and should be considered. However, these measures do not require amending NEPA.

NEPA establishes national policy to "create and maintain conditions under which man and nature can exist in productive harmony" and ensures the right to be heard before the government makes a final decision on vitally important actions that affect the quality of our lives. Many of the recommendations in the draft findings run counter to these basic principles of NEPA.

We urge the Task Force reconsider its recommendations and reject proposals that weaken NEPA in any way. Thank you for accepting our comments on this critical issue.

Sincerely,

Celina Montorfano
Vice President for Programs